



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

nu

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/944,915	08/31/2001	Andreas Westendorf	10191/2007	3903
7590	09/01/2006			EXAMINER PYZOWA, MICHAEL J
KENYON & KENYON One Broadway New York, NY 10004			ART UNIT 2137	PAPER NUMBER

DATE MAILED: 09/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/944,915	WESTENDORF ET AL.
	Examiner Michael Pyzocha	Art Unit 2137

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 31 July 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 22-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 22-45 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

1. Claims 22-45 are pending.
2. Amendment filed 07/31/2006 has been received and considered.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 22, 23, 26, 27, 31, 33, 34, 36, 39, 41-45 are rejected under 35 U.S.C. 102(e) as being anticipated by Harvey et al (EP 0986209).

As per claims 22, 23, and 41-45, Harvey et al discloses transmitting first data to a first processor from one of a data medium drive and a third processor; transmitting second data to a second processor, the second data being based on the first data; checking the second data in the second processor to determine if the first data may be processed in the first

processor; and transmitting a check result to the first processor (see column 26 lines 17-60).

As per claim 26, Harvey et al discloses checking an error-free transmission in at least one of the first processor and the second processor (see column 26 lines 17-60).

As per claim 27, Harvey et al discloses the data is transmitted in encoded form (see column 26 lines 17-60).

As per claims 31, 33-34 and 36, Harvey et al discloses accessing a database and allowing and storing data (see column 26 lines 17-60).

As per claims 39, Harvey et al discloses determining a first check code is determined from the first data; and forming the second data at least in part from the first check code (see column 26 lines 17-60).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harvey et al as applied to claim 22 above, in view of Hamlin (US 7003674).

As per claim 24, Harvey et al fails to disclose including an identity of the drive with the authentication information.

However, Hamlin teaches including such information (see column 6 lines 38-53).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to including the identity of the drive with the information of Harvey et al.

Motivation to do so would have been to protect data against unauthorized drives (see Hamlin column 6 lines 38-53).

7. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harvey et al as applied to claim 22 above, in view of Okada (US 6704872).

As per claim 25, Harvey et al fails to disclose including an identity of the processor with the authentication information.

However, Okada teaches including such information (see Abstract).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to including the identity of the processor with the information of Harvey et al.

Motivation to do so would have been to restrict the use of a specific software program to a single processor (see Okada abstract).

8. Claims 28 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harvey et al as applied to claim 22 above, in view of Menezes et al (Handbook of Applied Cryptography).

As per claims 28 and 40, Harvey et al fails to disclose the second data is the first data provided with an electronic signature.

However, Menezes et al teaches the use of an electronic signature (see pages 22-23).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to include a digital signature on the first data of Harvey et al.

Motivation to do so would have been to provide authorization and non-repudiation (see page 22).

9. Claims 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harvey et al.

As per claims 29 and 30, Harvey et al fails to disclose the use of wireless connections.

However, Official Notice is taken that at the time of the invention it would have been obvious to one of ordinary skill in the art to use wireless connections.

Motivation to do so would have been to allow for mobility.

10. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harvey et al as applied to claim 22 above, in view of Sasaki et al (US 6735699).

As per claim 32, Harvey et al fails to disclose initiating a payment process.

However, Sasaki et al teaches initiating a payment process (see column 6 lines 53-65).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to initiate a payment process in the Harvey et al system.

Motivation to do so would have been to monitor and prevent the illegal use of digital information (see Sasaki et al abstract).

11. Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harvey et al as applied to claim 22 above, in view of Gurr (US 4264960).

As per claim 35, Harvey et al fails to disclose starting a check of the first data in the first processor; and restarting

the check in the first processor if the check has not been run through completely.

However, Gurr et al teaches such a check (see column 16 line 52 through column 17 line 3).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to include the checking system of Gurr in the Harvey et al system.

Motivation to do so would have been to check a message for errors (see Gurr column 16 line 52 through column 17 line 3).

12. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harvey et al as applied to claim 22 above, in view of Coley et al (US 5790664).

As per claim 37, Harvey et al fails to disclose deleting data if there is no license.

However, Coley et al teaches such a practice (see column 14 lines 57-67).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to

Motivation to do so would have been to protect the data from unauthorized use (see Coley et al column 14 lines 57-67).

13. Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harvey et al as applied to claim 22 above, in view of Flick (US 6140939).

As per claim 38, Harvey et al fails to disclose delivering a warning if the first data is not released.

However, Flick teaches such a warning (see column 3 lines 7-23).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to include the warning of Flick in the system of Harvey et al.

Motivation to do so would have been to allow for updating of samples (see column 3 lines 7-23).

Response to Arguments

14. Applicant's arguments with respect to claims 22-45 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this

action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ogawa et al (US 5936966), Zabetian (US 6327656), and Rasmussen (US 6640334) teach methods of checking at a second processor second data based on first data. Lesesky et al (US 7040435) and Zimmerman et al (US 20060129290) teach methods for providing remote vehicle diagnostics.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Pyzocha whose telephone number is (571) 272-3875. The examiner can normally be reached on 7:00am - 4:30pm first Fridays of the bi-week off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 .(toll-free).

MJP


EMMANUEL L. MOISE
SUPERVISORY PATENT EXAMINER